



Crl.O.P.(MD).No.14348 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

Crl.O.P.(MD).No.14348 of 2017

Nallasamy

... Petitioner

Vs.

1. The Inspector of Police
Anti Land Grabbing Special Cell,
Sivagangai District
2. The Inspector of Police
District Crime Branch
Sivagangai District
(R2 impleaded as per the order of this
Court dated 10.11.2017)
3. V.Anandan

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to direct the respondent police to register the complaint against the proposed accused based on the petitioner's complaint dated 17.07.2017, C.S.R.No.1719/2017 within the stipulate time that may be fixed by this Court.



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For Petitioner : Mr.R.M.Arun Swaminathan

For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the respondent police to register the complaint against the proposed accused based on the complaint of the petitioner dated 17.07.2017 in C.S.R. No.1719 of 2017 within the stipulated time.

2. According to the petitioner he executed power deed in favour of the third respondent with respect to disputed property but the agent executed sale deed for excess land by wrongly mentioning the measurement of the property. He gave complaint before the first respondent police and C.S.R.No.1719 of 2017 was given but no action has been taken.

3. The learned counsel for the petitioner contended that the petitioner has given complaint on 17.07.2017 and thereafter the first respondent had not taken any action and still the complaint has not been considered, hence he approached this Court for a direction to register the case.



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4. The learned counsel appearing for the third respondent contended that this respondent being a power agent had executed sale deed on behalf of the petitioner to one Shanmuga Velu. At that time of executing sale deed and one side measurement was wrongly mentioned and it is purely a typographical error and he has no intention to cheat anybody, hence the petition is liable to be dismissed.

5. The learned Additional Public Prosecutor appearing for the first and second respondent represented that based on the letter received from the District Registrar the respondent police enquired the matter and this Court had stayed the matter vide order dated 27.10.2017 in W.P(MD) No.19815 of 2017.

6. Heard both sides and perused the materials available on record.

7. On perusal of the records it is observed that the petitioner has filed this petition for directing the respondents to consider the representation dated 17.07.2012. The main grievance of the petitioner is that he executed a power deed in favour of the third respondent for particular extent, but the third respondent sold the property to one Shanmugavelu with excess land and thereby cheated the defacto



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complainant for which he gave the above representation. The petitioner has not approached the jurisdiction Magistrate under Section 156(3) of Cr.P.C had straight away filed this petition. The petitioner has not exhausted the remedy under section 156(3) of Cr.P.C. When the matter is pertaining to execution of documents and without exhausting the remedy before the concerned Magistrate, the petitioner has straight away come before this Court under Section 482 of Cr.P.C. As per the judgment of the Hon'ble Division Bench of this Court in **CDJ 2018 MHC 5100**, in the case of **G.Prabakaran vs The Superintendent of Police, Thanjavur District and another** the petitioner has to exhaust his remedy under Section 156(3) of Cr.P.C before the Magistrate Court. Hence the present petition is not maintainable. However the petitioner is at liberty to approach the Jurisdictional Magistrate to seek remedy in accordance with law.

8. With the above observation, this Criminal Original Petition is disposed of.

18.07.2023

Index : Yes / No
Internet : Yes / No
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To

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Sivagangai District
2. The Inspector of Police
District Crime Branch
Sivagangai District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

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